

HOUSE No. 4178

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 21, 2012

The committee on Health Care Financing to whom was referred the Bill requiring child and parent involvement in permanency and placement planning House, No. 61, changed, reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4178).

For the committee,

STEVEN M. WALSH.

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The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act requiring child and parent involvement in permanency and placement planning.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 51B of chapter 119 of the General Laws, as appearing in the 2010 Official
2 Edition, is hereby amended by striking subsection (c) and inserting in place thereof the
3 following:

4 (c) If the department has reasonable cause to believe a child's health or safety is in immediate
5 danger from abuse or neglect, the department shall take a child into immediate temporary
6 custody if it has reasonable cause to believe that the removal is necessary to protect the child
7 from abuse or neglect. The investigation and evaluation shall commence within 2 hours of initial
8 contact and an interim report with an initial determination regarding the child's safety and
9 custody shall be completed as soon as possible but not more than 24 hours after initial contact.

10 The final report required under this section shall be complete within five business days of initial
11 contact. If a child is taken into immediate temporary custody, the department shall make a
12 written report stating the reasons for such removal and shall file a care and protection petition
13 under section 24 on the next court day.

Each child who is age 7 or older shall be given a meaningful opportunity to participate in the development of the case plan and to state his preferences for initial and any subsequent placement or custody. The department shall ask any child who is age 7 or older to provide the names of any relatives or other adults with whom the child has a relationship. The department shall ask any child who is 7 or older, in private, to state his preferences for initial and any subsequent placement or custody.

Each parent shall be asked to provide the name of a relative or other adult with whom the child or the family has a relationship who could serve as a potential placement for the child. Each parent shall also be given a meaningful opportunity to participate in the development of the case plan and to state his preferences for initial and any subsequent placement or custody of his child.

If the department has or is seeking custody of a child, the department shall first investigate the possibility of placing the child in accordance with the placement preferences of the child or parents. The department shall complete such investigation before placing the child, except in the case of an emergency placement, in which case the department shall make every effort to complete the investigation within 48 hours after the placement, and make placement changes as appropriate based on the outcome of that investigation. Specific reasons for placement decisions must be documented in writing in the case file, including the reasons for rejecting placements identified by the child or parents.

SECTION 2. Section 51B of chapter 119 is hereby amended by striking subsection (e) and inserting in place thereof the following:

(e) Notwithstanding subsection (c), whenever the department has reasonable cause to believe that removal is necessary to protect a child from abuse or neglect, it shall take the child into

immediate temporary custody. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

Each child who is age 7 or older shall be given a meaningful opportunity to participate in the development of the case plan and to state his or her preferences for initial and any subsequent placement or custody. The department shall ask any child who is age 7 or older to provide the names of any relatives or other adults with whom the child has a relationship. The department shall ask any child who is 7 or older, in private, to state his or her preferences for initial and any subsequent placement or custody.

Each parent shall also be asked to provide the name of any relative or other person with whom the child or the family has a relationship who could serve as a potential placement for the child.

Each parent shall be given a meaningful opportunity to participate in the development of the case plan and to state his or her preferences for initial and any subsequent placement or custody of his or her child.

If the department has or is seeking custody of a child, the department shall first investigate the possibility of placing the child in accordance with the placement preferences of the child or parents. The department shall complete that investigation before placing the child, and make placement changes as appropriate based on the outcome of that investigation. Specific reasons for placement decisions must be documented in writing in the case file, including the reasons for rejecting placements identified by the child or parents.

SECTION 3. Section 51B of chapter 119 is hereby amended by striking subsection (g) and inserting in place thereof the following:

(g) The department shall offer appropriate services to the family of any child which it has reasonable cause to believe is suffering from any of the conditions described in the report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family life whenever possible. If the family declines or is unable to accept or to participate in the offered services, the department or any person may file a care and protection petition under section 24.

Each family assessment and service plan must document the involvement of the parents or guardians and children age 7 or older, including children in the custody of the department and their siblings or half-siblings and children placed by a court in the custody or under the guardianship of a relative or other suitable person, in the development of the plan. Such efforts must include, but are not limited to: (a) Encouraging the parents or guardian and the children to participate in the development and review of the plan and attempting to obtain the parents' or guardian's signatures documenting their review of the plan (b) obtaining information through separate and private conversations from the child and the parents about relatives or other adults with whom the child or the family has a relationship who could serve as a placement for the child and (c) If either the parents or child is not involved in the development of the plan, the reasons must be documented.

SECTION 4. Section 23 (c) of Chapter 119 is hereby amended by striking the text and inserting in place thereof the following:

(c) Whenever the department places a child in foster care, the department shall immediately commence a search to locate any relative of the child or other adult person who has played a significant positive role in that child's life in order to determine whether the child may

appropriately be placed with that relative or person if, in the judgment of the department, that placement would be in the best interest of the child.

Each child who is age seven or older shall be given a meaningful opportunity to participate in the development of the case plan and to state his or her preference(s) for initial and any subsequent placement or custody. The department shall ask any child who is age seven or older to provide the names of any kin or other adults with whom the child has a relationship. Further, the department shall ask any child who is seven or older, in private, to state his or her preference(s) for initial and any subsequent placement or custody.

Each parent shall also be asked to provide the name of kin or other adult with whom the child or the family has a relationship who could serve as a potential placement for the child. Each parent shall also be given a meaningful opportunity to participate in the development of the case plan and to state his or her preference(s) for initial and any subsequent placement or custody of his or her child.

If the department has or is seeking custody of a child, the department shall first investigate the possibility of placing the child in accordance with the placement preferences of the child and/or parent(s). The department shall complete that investigation before placing the child and make placement changes as appropriate based on the outcome of that investigation. Specific reasons for placement decisions must be documented in writing in the case file, including the reasons for rejecting placements identified by the child and/or parent(s).

The department shall also seek to identify any minor sibling or half-sibling of the child and attempt to place these children in the same foster family if, in the judgment of the department, that placement would be in the best interests of the children.

SECTION 5. Section 29 of chapter 119 is hereby amended by striking the text and inserting in place thereof the following:

Whenever an adult with mental retardation who is the responsibility of the department or a child is before any court under clause (3) of subsection (a) of section 23, or sections 24 to 27, inclusive, this section or section 29B, that adult or child shall have and be informed of the right to counsel at all hearings and that the court shall appoint counsel for that adult or child if the adult or child is not able to retain counsel.

Whenever the department or a licensed child placement agency is a party to child custody proceedings, the parent, guardian or custodian of the adult with mental retardation or the child: (i) shall have and be informed of the right to counsel at all such hearings, including proceedings under sections 5-201, 5-204 or 5-206 of chapter 190B, and that the court shall appoint counsel if he is financially unable to retain counsel; and (ii) shall have and be informed of the right to a service plan or case plan for the adult with mental retardation or child and his family which complies with applicable state and federal laws and regulations for these plans. The probate and family court and the juvenile court departments of the trial court shall establish procedures for: (i) notifying the parent, guardian or custodian of these rights; and (ii) appointing counsel for an indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing or appearing as a party in any such action. The department or agency shall provide a copy of the service or case plan to the parent, guardian or custodian of the adult with mental retardation or child and to the attorneys for all parties appearing in the proceeding within 45 days of the department or agency filing an appearance in such proceeding. Thereafter, any party may have the original or changed plan introduced as evidence, and with the consent of all parties the plan

123 shall be filed with the court. Notwithstanding this section, the court may make such temporary
124 orders as may be necessary to protect the adult with mental retardation or the child and society.

125 Before any non-emergency change in a child's placement or any non-emergency hospitalization,
126 and no later than one business day after any emergency change in a child's placement or any
127 emergency hospitalization, the department shall provide notice of the change in placement to the
128 child's attorney, the parents' attorneys, and the probation department.

129 The department, upon its request, shall be represented by the district attorney for the district in
130 which the case is being heard.